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Poland

Food and Agricultural Import Regulations and Standards

Country Report

2005

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Report Highlights:
This report outlines the requirements for food and agricultural imports to Poland. The goal of report is assist U.S. exporters with labeling, packaging and permitted ingredient lists and other relevant information. It also provides contact information for Polish government and inspection services that oversee and control import process.

Includes PSD Changes: No
Includes Trade Matrix: No
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[PL]

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The Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Warsaw, Poland prepared this report for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. Before any goods are shipped, it is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

SECTION I. FOOD LAWS

Harmonization within the EU

Poland became member of the EU in May 2004 and as a member of the European Union (EU) follows all EU directives, regulations and obligations. It is therefore recommended that this report be read in conjunction with the Food and Agricultural Import Regulations and Standards (FAIRS) report produced by the US Mission to the EU in Brussels, Belgium, available at http://www.useu.be/agri/usda.html as well as at http://www.fas.usda.gov/scriptsw/attacherep/default.asp.

The vast majority of food laws of the EU member countries have already been fully harmonized with EU law. Areas such as vitamins, minerals and other physiological substances as well as health claims are still awaiting EU harmonization.

Based on the EU single market principle, all food products legally imported and distributed in one member country of the EU can generally also be distributed in all other member countries, except in those cases when a country can prove health concerns about the product or an ingredient of a product is intended for import. However, a separate application for approval of imports is still necessary for all those products containing substances not yet harmonized or those products that are being imported into an EU country for the first time and which are not present in other EU countries.

Exporters should be aware that there may also be some variation among Member States in applying EU harmonized legislation: there may be temporary waivers or exemptions and in certain cases there may be room for interpretation of EU harmonized legislation or certain aspects which are not regulated in detail at the EU level may be handled differently in different Member States. In addition, there is a wide variation in inspection fees, registration fees and in the time required to evaluate dossiers on products used in the course of the food production process (www.useu.be/agri/harmonization.html).

Poland

Most of the norms and regulations relevant to food and agricultural imports to Poland were harmonized with the EU regulations prior to accession. However, certain regulations concerning food additives were published immediately prior to accession. Poland's major regulations concerning food products are contained in the Polish Food Law (Ustawa o Warunkach Zdrowotnych Zywnosci i Zywnieniu), which was published on May 11, 2001 in Polish Law Journal nr. 63 pos. 634. This law is accompanied by various working regulations, which are all in line with the current EU regulations. This law is applicable to domestically produced and imported products. The text of the law can be found at (link is in Polish language) http://www.abc.com.pl/serwis/du/2001/0634.htm

SECTION II. LABELING REQUIREMENTS

General requirements

General rules on labeling, presentation, and advertising foodstuffs marketed in the EU can be found in the European Parliament and Council Directive 2000/13/EC + corrigendum (English version of Annex III). This directive consolidates general labeling directive 79/112/EEC and all its amendments in a single text. It applies to food products intended for supply to food retail and foodservice. (http://www.useu.be/agri/label.html)

Polish legislation closely follows EU legislation. The basic law on food labeling was published in the December 16, 2002 Polish Journal of Law (Link in Polish language only) and can be located at http://www.abc.com.pl/serwis/du/2002/1856.htm

The basic law was updated in order to reflect additional EU regulations (Journal of Law no. 58 pos. 563 dtd. April 18, 2004) on March 29, 2004 and can be located at http://www.abc.com.pl/serwis/du/2004/0563.htm

All food products entering the Polish market must have Polish language labeling. Normally **all pre-packaged foods** intended for the final consumer or catering establishments must be labeled according to the general rules prior to entering the Polish market. **Please note that there are no exceptions to label regulations.**

Name and Address

Name and address of the producer.

Country of Origin

Must be declared if exclusion of that information can mislead the consumer as to where the product originates.

Product Designation

The designation must describe the product in an appropriate way or may be a name stated by law. A fantasy name or a trademark cannot replace the product designation. Pictures or claims regarding a certain component as well as naming of specific ingredients in the product designation requires a quantitative declaration of that ingredient either in accordance with the product designation or on the ingredients list.

Composition

The composition of a food must be declared as an ingredients list, listing all ingredients used in the order of falling weight at the time of production. Some groups of ingredients, e.g. vegetable oils, can be declared by a group name. Allowed group names are defined in the labeling regulations. Composite ingredients well known to consumers, e.g. margarine need not be specified, if the content is below 25% of the total weight of the product.

Some categories of foods are exempt from declaring a list of ingredients e.g. alcoholic beverages.

Net Weight

Net content (weight or volume) must be stated in the metric system. Drained net weight should be stated as well when appropriate. Number of pieces can be stated as well.

Durability

The durability must be stated by best before/best before end date ("najlepiej spozyc przed"). Very perishable foods must be marked with last day of consumption ("nalezy spozyc do"). The durability statements must be followed by storage instructions and instructions for use if necessary in order to ensure correct use and storage.

Other Labeling Requirements

The Polish label or stick-on label must be applied prior to import.

For sample-size and institutional packed products in small packages where the biggest surface is less than 10 cm, it is sufficient to state product designation, net weight, and durability (and lot no., if durability does not include the date). For products in bigger packages all requirements must be fulfilled.

Food additives must be declared on the ingredients list by functional class followed by specific name or E-number, as defined on the labeling regulation and positive additive list. Flavors must be declared merely as "aroma" and it is possible to state "natural", "nature identical", or "artificial" in accordance with the definitions in the flavor regulation.

Requirements Specific to Nutritional Labeling

Nutritional labeling is regulated in accordance with EC Directive 90/496/EEG. Nutritional labeling is voluntary unless a nutritional claim is made on the basis of which nutritional labeling becomes compulsory and must be provided in a prescribed format. "Nutrition Labeling" means any information on the label that relates to energy value and to the following nutrients: protein, carbohydrate, fat, fiber, sodium, vitamins, and minerals present in significant amounts. This information and the format differ from those of the standard U.S. nutritional fact panel, which cannot be used for Poland and the rest of the EU. (http://www.useu.be/agri/label.html#Nutrition).

Poland's nutritional labeling regulations are specified in the Journal of Law no. 239, dated December 23, 2002 (Original Regulation published in the Journal of Law no. 51 chapter 293 dated December 17, 1973 and Journal of Law 108 chapter 520 dated August 22, 1996). Polish regulations concerning this subject are not very detailed. Any issues not directly specified are subject to the EU and Codex regulations. In many cases, product labeling must be individually approved by the State Hygiene Office- (Panstwowy Zaklad Higieny) - PZH.

Since Polish regulations do not specify conditions that must be met when using nutrition content claims, implied, and health threat claims on packaging must be approved by the PZH office. In certain cases, cereal products for example, the uses of statements such as "cereal contains minerals beneficial to health" have already been approved for the Polish market.

Some companies have experienced problems with terms, which imply curative or prevention effects of food products specified on the labels. In most cases the standard Nutrition Facts panel used on U.S. products is not sufficient for Polish authorities in order to approve the

product but is taken into consideration when evaluating any nutritional claims implied on product labels.

PLEASE note: The current Polish regulations specify that each delivery of the nutrition product must be verified by the Sanitary authorities.

SECTION III. PACKAGING AND CONTAINER REGULATIONS

Council Directive 76/211/EEC provides rules for container sizes, acceptable tolerances on container content and requirements for the size of the figures indicating container content (www.useu.be/agri/packaging.html).

Product Recycling Regulations

Member States are required to take measures to limit packaging waste and must introduce systems for re-use, recovery, and recycling of packaging materials (Council Directive 94/62/EC). Commission Decision 2001/524/EC relates to the publication of references for certain EN standards in the Official Journal, which do not fully meet the essential requirements of Directive 94/62/EC. To facilitate collection, re-use, and recovery including recycling, an identification system for packaging has been established (Commission Decision 97/129/EC). Its use is voluntary (http://www.useu.be/agri/packaging.html).

Poland's Waste Disposal Regulations

On April 27, 2001 (published in Journal of Law No. 62, dated June 20, 2001, amended December 19, 2002 published in Journal of Law No. 7, dated January 23, 2003) the Polish Government approved a new regulation concerning the disposal of waste originating from production, import, and distribution of all products sold on the Polish market (including food and agricultural products). Producers and importers are responsible for signing appropriate agreements with firms specializing in utilization of packaging materials. By introducing this new regulation, the Polish government, in line with the EU requirements, is promoting product recycling.

Poland's Product Disposal Regulations

On January 6, 2003 (published in Journal of Law No. 7) the Polish Government approved a new regulation concerning the disposal of food and agricultural products that do not comply with Polish regulations and cannot enter the distribution system. It is the responsibility of the producer or importer to cover the costs connected with destruction of such products.

SECTION IV. FOOD ADDITIVE REGULATIONS

Polish food additive regulations are primarily based on common regulations within the European Union. Poland along with other EU countries is allowed to conduct separate procedures for the approval of particular ingredients within its territory. Currently, there is only one such case, a new sweetener "neotame", which is allowed in Poland but not in other EU countries.

Four major European Commission directives on the use of additives and labeling rules are implemented based on Polish food additive regulations. These directives govern colors, sweeteners, flavors, and miscellaneous food additives in addition to the labeling directive. The EC regulations also require the identity and purity of approved food additives.

1. European Parliament and Council Directive 94/35/EC on sweeteners for use in foodstuffs. The annex to this directive lists maximum usable doses for sweeteners in selected foodstuffs.

2. European Parliament and Council Directive 94/36/EC on colors for use in foodstuffs.

Annex I: List of permitted food colors. Only substances listed in this annex may be used
Annex II: Foodstuffs, which may not contain added colors.
Annex III: Foodstuffs to which only certain permitted colors may be added.
Annex IV: Colors permitted for certain uses only.
Annex V: Colors permitted in general and the conditions of use. Colors permitted following the "quantum satis" principle (no maximum specified) are listed in the Appendix.

3. European Parliament and Council Directive 95/2/EC, as amended, the so-called miscellaneous additives directive on food additives other than colors and sweeteners.

Annex I: List of food additives permitted for use in foodstuffs (excl. those listed in Annex II) following the "quantum satis" principle.
Annex II: List of foodstuffs in which only a limited number of additives of Annex I may be used. These include cocoa and chocolate products, fruit juices and nectars, jam and jelly, dehydrated milk and cream, fruits and vegetables, rice, oils and fats, certain cheeses, minced meat, bread and pasta, wines and beer.
Annex III: List of conditionally permitted preservatives and antioxidants.
Annex IV: List of other permitted additives.
Annex V: List of permitted carriers and carrier solvents.
Annex VI: List of additives permitted in foods for infants and young children.

All three of these directives and their lists can be downloaded from the FAS/USEU webpage
http://www.useu.be/agri/additive.html#Labeling
http://www.useu.be/agri/additive.html#Miscellaneous
http://europa.eu.int/comm/food/fs/fl/fl01_en.pdf

Labeling requirements for additives and flavorings are laid down in Directive 2001/13/EC (general labeling directive), Regulation 50/2000/EC (GM additives) and Directive 89/107/EEC.

The Polish Positive Additive

Poland uses a positive-additives list, which identifies additives that are permitted for use in foodstuffs. Poland's Ministry of Health and Social Welfare approved a regulation for food additives on April 23, 2004 (Journal of Law no. 94 dated April 30, 2004). The aforementioned law does not include working regulations (actual positive additive list) which are to be prepared at a later date. This particular regulation has been one of the most difficult obstacles facing imported products. According to Polish authorities the new list is in line with the current EU regulations. **Please note:** As each EU member state introduces slight variations to allowable food additives it is vital for all U.S. exporters to check with the potential Polish importers about whether the product intended for the Polish market meets all the ingredient requirements.

The following institutions are directly involved in inspecting food additive levels in imported products:

Ministry of Health and Social Welfare - preparation of legal documentation
Warsaw Sanitary Station - SANEPID - tests & check ups
National Food and Nutrition Institute - legal work & check ups

Labeling food additives in foods shall consist of a category designation followed by the specific name or the E-number of the additive used. The category designations are defined in the labeling directive and implemented in the Polish labeling regulation. The specific names and E-numbers of the food additives are specified in the directives and on the Polish Positive Food Additives List.

Special Polish Rules for Food Additives

Vitamins and Minerals. The Polish Ministry of Health issued separate regulations concerning allowable vitamins and other chemical substances, which are approved for use on food in Poland (Polish Journal of Law no. 27 pos. 236 dated February 17, 2003). This regulation is consistent with current EU regulations. (Link is in Polish language only) http://www.abc.com.pl/serwis/du/2003/0236.htm.

SECTION V. PESTICIDE AND OTHER CONTAMINANTS

On April 16, 2004 Poland's Minister of Health approved (published in Journal of Law no. 85 pos. 810 dated April 27, 2004) new regulations on maximum pesticide and other contaminant levels. According to Polish authorities these regulations follow general laws applied in the EU. The EU pesticide legislation maximum residue levels (MRLs) incorporate elements of the Codex Alimentarius and the OECD, but exceptions exist. Overviews of all compounds for which harmonized MRLs have been developed are available on the FAS/USEU website www.useu.be/agri/pesticides.html with amendment 2004/115/EC of December 15, 2004 (http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:32004L0115:EN:HTML - since June 23, 2005 in force in Poland).

The complete list of MRL/commodity combinations can be downloaded from the Commission's website at http://europa.eu.int/comm/food/index_en.htm. Pesticide MRLs for processed or composite products are based on the MRLs for the raw agricultural ingredients.

1. Residues in Animals and Animal Products

Maximum Residue Levels for veterinary pharmaceutical products in foodstuffs of animal origin were established in Council Regulation 2377/90. Updated lists of these MRLs are available at: http://dg3.eudra.org/F2/mrl/index.htm.

Monitoring residues in animals and animal products is addressed separately in Council Directive 96/23/EC. This directive covers monitoring of the above-mentioned pesticide residues, and includes residues of veterinary drugs and a wide range of other contaminants and undesired substances such as residues of growth promotants. The prohibition of the use of hormones in meat production is addressed in Council Directive 96/22/EEC.

To register a new pesticide in the EU, including the establishment of an MRL, an application needs to be prepared and reviewed by the relevant authorities and committees at the member state and EU level. Pesticides currently on the EU market are under review. For pesticides, which are not or no longer authorized at Community level, an import tolerance may be requested. Application dossiers are first submitted for approval in an individual member state. The complete procedure is described on the Commission's web site at http://europa.eu.int/comm/food/index_en.htm.

SECTION VI. OTHER REGULATIONS AND REQUIREMENTS

Certification and documentation requirements for shipments into EU member states differ depending on the product. For some product groups, requirements are harmonized, but not for others. For most products the EU requires import licenses.

1. Animal Products

As of February 25, 2005 the Chief Veterinary Officer (CVO) implemented changes to the procedures regarding the import of animal origin foods fit for human consumption which are not harmonized with the EU legislation. The changes were based on the implementation of the Act on Animal Health Protection and Contagious Diseases in Animals and in accordance with changes to other acts, dated January 7, 2005 (Dz.U. No. 23, item 188).

According to new regulations the import of animal origin products for which the veterinary requirements have not been specified and which are to be marketed nationally, is possible from a non-EU member state (third country), provided the import of such products is in accordance with the permit issued by the CVO and the imported products are accompanied by an original copy of Certificate of Health issued by the third country, if such products are dispatched. The Certificate of Health must:

1) be written in the Polish language and the official language of the third country from which the animal origin products are imported;
2) acknowledge that the veterinary requirements for animal origin products as of the date the permit is issued by the CVO have been met;
3) show the date and number of the Permit issued by the CVO.

The permit is issued by the CVO when applied for by the entity importing the products. The application for the Permit must include the following information:

1) the data of the entity importing the animal origin products, including:
   a) name, place of residence and the address, or
   b) company name, premises and address;
2) data on the establishment processing the products, including:
   a) name
   b) address and the name of the country
   c) the ID number
3) the animal origin products specifying:
   a) the quantity
   b) the type and HS code
   c) animal species from which the product is derived
   d) type of processing the animals were subject to
4) the destination address of the imported animal products
5) the border crossing point at which the products enter the territory of Poland
6) estimated date of arrival.

The CVO may refuse the application for the Permit if it does not meet the abovementioned requirements, which are pursuant to Art. 6a, par. 7 of the Act on Veterinary Requirements for Animal Derived Products.

The application for the CVO's Permit must be received not later than 30 days prior to the dispatch date of the products from the country of export.

Further, under Art 6a, par. 4 of the Act on Veterinary Requirements for Animal Origin Products, the CVO is authorized to carry out inspection of the processing establishment in the third country where the products originate from prior to the issuance of the permit.

The permit shall be issued provided the animal origin products:
1) originate in the third country or a region from which the import of such products to the member states of the European Union is not forbidden
2) make no hazard to public health or animal health.

The Permit specifies the following data in particular:

1) veterinary requirements for:
a) animal origin products the fulfillment of which must be acknowledged in the Certificate of Health coming with the shipment
b) means of transport by which the animal origin products are carried
2) the purpose of the animal origin products will be used for

The Permits are issued by the CVO for a specific period of time.

The UE non-harmonized animal origin products may be introduced as raw material for further production and then marketed but only under the regulations specified in Art. 16 and 17 of the Veterinary Requirements for Animal Origin Products (Dz.U. No. 33, item 288 with amendments). In accordance with Art. 16 par. 1 of the Act, the animal products produced in the approved establishments must be processed exclusively with the use of animal products originating from approved plants. Thus, under Art. 17 of the Act, animal derived products processed in non-approved plants may only be approved for the domestic market of the importing country.

According to the regulations for veterinary requirements for animal origin products, no fees are paid for the permits issued by the CVO. Therefore, the regulations included in the Act on the treasury duty dated September 9, 2002, apply. According to Art. 41, item 2 of the Annex to the Act, a duty amounting to PLN 76 (PLN 3.38 = $1) applies. A fee for the changes to the issued Permit is to PLN 19. Respective duty stamps must be affixed to the application for the permit. Those stamps shall be crossed by the entity receiving the application. The Treasury Fee shall be paid either in cash or by a bank transfer to the bank account of the respective municipality or commune office. When paying, the applicant must specify on the slip the object for which the fee is paid. The payment slip may be electronic if it contains the payer's ID including the Tax/VAT ID Number, shows the bank account number of the given city or commune office, the payment subject and date and bears a safe electronic signature of the authorized bank officer (the payer must specify clearly the subject for which the Treasure Duty is paid).

Import legislation of EU-harmonized products has been adjusted to the EU law. Import of animal products is allowed from establishments on the lists of EU-approved establishments. Nearly all U.S. animal products are recognized by the EU. Various U.S. agencies, including FSIS, APHIS, AMS, and FDA are involved in the listing process. Establishments are subject to EU inspections prior to listing and/or to occasional EU audits after listing. Exporters should be aware that getting plants listed has been extremely difficult for the U.S. At present only two beef processors, and one pork plant are approved. Health certificates corresponding to the animal category are required. A list of EU approved establishments is available through the U.S. Meat Export Federation, email: eu@usmef.org. Exports of beef tripe are allowed only from plants eligible for export to the EU and based on the health

certificate agreed to bilaterally between Poland and the U.S. which is issued by Food Safety Inspection Service. The current list of plants eligible for export of tripe to the U.S. is available at http://forum/europea.eu.int/sanco/vets/info/data/liste/lls-prod.html.

For processed foods containing animal products, the situation is more complicated because there is no legislation specifying the percentage of dairy, egg, red meat or poultry meat that a foodstuff must contain. Products containing any amount of red meat or poultry meat must be certified. Certification of products containing egg products or dairy depend on the composition of the product.

The U.S. is not included on the European Commission's list of countries with processing systems and health standards equivalent to the EU for fishery products for human consumption or bivalve mollusks. The U.S. is under a derogating regime which allows export of seafood to the EU, in accordance with Council Decision 2004/359/EC (amended Council Decision 95/408/EC). The last Decision extends the derogation to December 31, 2005.

Each shipment must be accompanied by a health certificate in accordance with the model provided by Commission Decision 95/328/EC (amended 2001/67/EC regulation) for fishery products and with Commission Decision 96/333/EC for mollusks, echinoderms, tunicates and marine gastropods. In the U.S., both the Food and Drug Administration and the National Marine Fisheries Service have the authority to issue certificates for export to the EU. More details about requirements for fish exports to the EU are available at: http://www.nmfs.noaa.gov/trade/EUCONTENTS.htm.

2. Plant products

For fruit and vegetable imports, generally import certificates are not required. However, phytosanitary certificates issued by APHIS are requested for fruit, vegetable and nut shipments to the EU. For processed fruit and vegetable products, APHIS issues export certificates. Imports of fruits and vegetables also need to meet the marketing standards for fruit and vegetables as listed in Council Regulation 2200/96. Trading standards and controls are described by Council Regulation 1148/2001 (http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_156/l_15620010613en00090022.pdf). Imports must also comply with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) rules for endangered species.

3. Other Processed Products

Documentation requirements and import regulations for other processed food products will depend on ingredients. In general, Council Directive 93/43/EEC establishes the rules of hygiene for foodstuffs which supplements Council Directive 89/397/EEC. These rules, as set out in the annex, must be observed at the time of preparation, processing, manufacturing, packaging, storing, transportation, distribution, handling and offering for sale and supply of foodstuffs. Food businesses are required to use the HACCP system to ensure the safety of foodstuffs. See http://www.useu.be/agri/hygiene.html.

SECTION VII. OTHER SPECIFIC STANDARDS

Weights and measures

Weights must be stated in metric system (weight or volume). An optional directive on package sizes exists. According to Polish regulatory authorities Poland has not adopted the rules so package sizes are optional for ordinary food products.

Novel foods/GMOs

Novel foods are defined as foods not previously consumed in significant quantities within Europe. Also new combinations of ingredients may be considered novel according to Polish interpretation of the directive.

Novel foods, including GMOs, can be used after receiving EC certification. Once a GMO product is approved for use in foods, no product specific registration is necessary. GMO products as well as ingredients (including food additives and flavors) deriving from GMO, which can be analytically detected (DNA or protein content), must be declared as genetically modified in connection with the product designation or on the ingredients list. Accidental content of an EU approved GMO in combined foods and single ingredient foods at a level below 0.9% need not be declared.

Genetically Modified Food Labeling (Processed Food)

Introduction

Despite the fact that Poland's latest GMO regulations from June 11, 2001 (Journal of Law nr 76 pos 811 dated July 25, 2001) remain in force and the new regulations are still being updated; new general rules of the EU Commission are being currently applied in Poland. The new EU regulations (applicable in Poland since May 1, 2004) reduce the minimum traceable level of GMO to 0.9 percent and change the approval body for new GMO products from Polish authorities to the EU Commission. Currently Poland's Main Sanitary Inspectorate only collects applications for approval and passes them on to EU.

On October 18, 2003, the EU published two regulations on "Genetically Modified Food and Feed" (European Parliament and Council Regulation 1829/2003 http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_268/l_26820031018en00010023.pdf) and "Traceability and Labeling of Genetically Modified Organisms and the Traceability of Food and Feed Products produced from Genetically Modified Organisms" (European Parliament and Council Regulation 1830/2003 http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_268/l_26820031018en00240028.pdf). The new rules entered into force on April 18, 2004. The new EU regulations are specified below.

Labeling

Articles 12 and 13 of Regulation 1829/2003 establish labeling requirements for foods, which are to be delivered as such to the final consumer or distributor and which:

- contain or consist of genetically modified organisms (GMOs) | GMOs authorized
- are produced from or contain ingredients produced from GMOs | by the EU

The new labeling rules do not apply to foods containing less than 0.9 percent of genetically modified ingredients or, if the presence of such material is technically unavoidable. Operators must supply evidence to the competent authorities that appropriate steps have been taken to avoid the presence of GM material.

Specific labeling requirements apply to:

a) Foods consisting of more than one ingredient: The words "genetically modified" in parentheses immediately following the ingredient concerned or "produced from genetically

modified (name of the ingredient)" must be included in the list of ingredients (list of ingredients: Ref. Article 6 of General Labeling Directive 2000/13/EC).

b) Ingredients designated by the name of a category (e.g. vegetable oil): The words "contains genetically modified (name of organism)" or "contains (name of ingredient) produced from genetically modified (name of organism)" must be included in the list of ingredients.

The indications referred to in (a) and (b) may appear in a footnote to the list of ingredients. In this case they must be printed in a font of at least the same size as the list of ingredients.

c) Foods for which there is no list of ingredients: The words "genetically modified" or "produced from genetically modified (name of organism)" must appear clearly on the label.

d) For prepackaged food in small containers of which the largest surface has an area of less than 10 cm^2: the required information must be indicated on the packaging material in a font sufficiently large for it to be easily identified and read.

Novel Foods Containing or Produced from GMOs

The new rules also affect Novel Foods Regulation 258/97. The authorization of novel foods and novel food ingredients containing or produced from GMOs no longer falls within the scope of the Novel Food Regulation, but will be regulated by GM Food and Feed Regulation 1829/2003. Any characteristics or properties, as specified in the EU's GM authorization, must be indicated on the label of food products which are different from their conventional counterparts as regards composition, nutritional value or nutritional effects, intended use of the food or implications for the health of certain sections of the population or, if the food product gives rise to ethical or religious concerns.

The label of novel foods, which do not have a conventional counterpart, must also contain appropriate information about the nature and the characteristics of the foods concerned.

Traceability

Operators who market products produced from GMOs must ensure that the following information is transmitted in writing to the operator receiving the product:

- an indication of each of the food ingredients or additives produced from GMOs.
- for products for which no list of ingredients exist, an indication that the product is produced from GMOs.

Operators must have a system and standardized procedure in place to hold the information mentioned above and to allow the identification of all the different operators by whom and to whom the GM foods were made available. This information must be kept for a period of five years. The traceability requirements do not apply to products containing less than 0.9 percent of GMOs, provided that the traces of GMOs are adventitious or technically unavoidable.

In cases where Community legislation provides for specific identification systems, such as lot number for prepackaged products, operators are not obliged to hold the traceability information, provided that this information and the lot number is clearly marked on the package and that information about lot numbers is held for a period of five years.

Dietetic and special use foods

Special regulations on dietetic foods cover:

Slimming foods (VLCD and LCD diets)
Baby and infant formulas
Nutritional preparations for special medicinal uses

Baby and infant formulas intended for healthy children, and low calorie diets and special medicinal diets are subject to EC harmonization. The Polish importer is obligated to inform Polish Sanitary Authorities (Glowny Inspektorat Sanitarny) about the first shipment of the above products ("powiadomienie" advisory letter procedure). Detailed regulations consistent with the EU law, are specified in the Journal of Law no. 104 pos. 1094 dated May 1, 2004 (link is in Polish language) http://www.abc.com.pl/serwis/du/2004/1094.htm.

Organic foods

A product can be marketed as organically grown or under given circumstances as organic ingredients in composite foods, provided an accredited inspection body grants the production certificate. Third country inspection bodies must conform with the standard of EU member state inspection bodies, which is described in EN and ISO standard - Council Regulation 2092/91.

Since May 1, 2004, Poland has had a new Act on organic agriculture which was established on April 20, 2004, which is based on the EC regulation no 2092/91/EEC of June 24, 1991 on agricultural production of organic products and labeling of agricultural and food products, as well as EC regulation no. 94/92/EEC of January 14, 1992 regarding detailed rules of implementation of the agreements on imports from third countries which were set forth by regulation no. 2092/91/EEC.
The Act announces the responsibility of certification of imported organic foods into Poland on the Commercial Quality of Agricultural and Food Products Inspection (Inspection). The Inspection issues import permits for products from third countries not mentioned on the EU list and controls organic products imported from third countries. Additionally, imported organic products have to be checked and certified by one of the Polish certification organization to be labeled organic.

Certification organizations in 2005:

EKOGWARANCJA
PTRE Sp. z o.o.
20-834 Lublin,
ul. Irysowa 12/2
Web page: www.ekogwarancja.pl
e-mail: biuro@ekogwarancja.pl

PNG Sp. z o.o. Jednostka Certyfikacji Produkcji Ekologicznej
w Zajaczkowie
26-065 Piekoszów
Web page: www.png.ecofarm.pl
e-mail: png@ecofarm.pl

COBICO Sp. z o. o

31-203 Kraków,
ul. Lekarska 1
Web page: www.cobico.pl
e-mail: cobico@cobico.pl

BIOEKSPERT Sp. z o.o.
00-621 Warszawa,
ul. Boya-Zelenskiego 6, lok. 34
Web page: www.bioekspert.waw.pl
e-mail: bioekspert@plo.pl

BIOCERT MALOPOLSKA
Sp. z o.o.
31-503 Kraków
Ul. Lubicz 25 A
Web page: www.biocert.pl

Polskie Centrum Badan i Certyfikacji S.A.
Oddzial w Pile ul. Sniadeckich 5 64-920 Pila
Web page: www.pcbc.gov.pl

Ministry of Agriculture and Rural Development
Department of Plant Production and Protection
Section of Organic Agriculture
Ul. Wspolna 30
00-930 Warszawa
Mr. Wieslaw Wawiernia
Ph. (48-22) 623 2466, 623 2573
Fax (48-22) 628 87 84
Web page:
http://www.bip.minrol.gov.pl/strona/DesktopDefault.aspx?TabOrgId=1154&LangId=0 (in Polish)

Commercial Quality of Agricultural and Food Products Inspection
Section of Market Control, Organic Farming and Inventory
Ms. Monika Rzepecka, ph (48-22) 621-64-21
Mr. Piotr Modlinski, ph (48-22) 623-29-31
fax (48-22) 621-48-58, 629-48-16, 628-57-49
00-930 Warszawa
ul. Wspólna 30

Fruits and vegetables

Fruits and vegetables can be sold unpacked separately or by weight. Country of origin must be stated and also any surface treatment must be noted. Surface treatment of fruits is regulated in accordance with the food additives regulation.

SECTION VIII. TRADEMARK LAWS

Protecting Your Product

Intellectual Property Rights (IPR) infringement is covered by intellectual property laws in Poland. Although enforcement has improved, it is still far from adequate. In theory all foreigners, both resident and non-resident in Poland, are protected from intellectual property infringement, either as a result of Polish law or bilateral agreements. Poland is a signatory to a number of international IPR conventions, including the Bern and Paris conventions as well as the World Institute for Protection of Intellectual Property (WIPO). In 1997, Poland ratified the Rome Convention specifying IPR regulations.

As a result of its uneven IPR performance, in May 1997 the United States Trade Representative placed Poland on the Watch List of its Special 301 report on IPR practices. Poland remains on the Watch List at the present time.

Patents

The Polish Law on Inventive Activities protects inventions through patents and utility models. Applications are filed with the Polish Patent Office; Polish attorneys must represent foreign applications. Patents are granted based on novelty, non-obviousness, technical character, and applicability. These are product patents versus process patents. Registrations are published 18 months from the date the application is received. Registered patents are valid 20 years from the filing date. Registered models, inventions, and industrial designs are valid for five years and may be extended for another five years. Annual fees must be paid for maintaining a patent. There are no regulations regarding license terms. Criminal penalties are possible for infringement.

Trademarks

Poland's trademark law of 1985 stipulates that trademarks, service marks, or collective marks may be registered. Trademarks are also protected under the 1993 Law on Combating Unfair Competition. A trademark must define the goods and services that are to be marked by the registered trademark. Applications are filed with the Polish Patent office and priority under the Paris Convention may be claimed. Polish patent agents must represent foreign applicants. A registered trademark is valid for 10 years from the date of filing, unless the mark is not used for three consecutive years. The registration may be renewed for 10-year periods. Trademarks may be licensed. Ornamental designs and integrated circuits are protected.

U.S. companies find, however, that despite the existence of laws, Polish authorities often lack the knowledge and resources to enforce them. U.S. companies must often spend resources protecting their own interests. Under the amended Code of Civil Procedure, a request for temporary injunction forbidding the infringer from using an item until a case can be resolved must be reviewed by a court within seven days, thus becoming a new tool in protecting trademark and intellectual property rights.

The Pro-Marka Polish Association of Branded Goods Producers (PABGP) was established in 1996 with the goal of protecting trademarks, foiling pirates, and educating consumers and regulators alike about the value of brand names. Currently Pro-Marka has about 25 international and Polish member companies and focuses on consumer products.

Copyrights

A new copyright law consistent with international standards became effective in June 1994. The copyright law introduced protection of not only literary, musical and graphic works, but also computer software, audio-visual works and industrial patterns. It extends copyright protection from 25 to 50 years to comply with international standards, and protects authors,

producers, artists, and performers for both commercial and personal rights. Generally, commercial rights expire 50 years after the author's death. This regulation also applies to registered promotional audio/visual aids that might be utilized in promoting products in Poland.

U.S. companies find that enforcement of copyrights, like trademarks, is still inadequate despite major progress made in the last four years. Since the beginning of 1998, Polish customs authorities and police have been more actively protecting intellectual property rights by not only reacting to claims of interested companies or organizations but also being pro-active. U.S. companies and trade associations have spent a great deal of resources informing the public as well as the legal community about the issue of copyright protection. The greatest problems are in the area of sound and video recordings and especially software. The local chapter of the Business Software alliance estimates that even though the situation is improving, almost 70% of software products on the Polish market are pirated.

Trade Secrets

Trade secrets are protected under the law regarding protection against unfair competition of 1993.

SECTION IX. IMPORT PROCEDURES

EU Regulations

Council Regulation 2913/92 establishes the Community Customs Code. The Code lists all the customs procedures applicable for trade in goods with third countries. Import duties are determined by the tariff classification of goods and by the customs value. With the implementation of the Code, the 25 member states of the European Union form a customs union, meaning that all member states apply the same tariff on goods imported from outside the EU. Once an imported good is cleared in one member state, it can move freely throughout the EU. See http:/www.useu.be/agri/import.html and http://www.useu.be/agri/customs.html.

The EU uses the Combined Nomenclature (CN) for the customs classification of goods. The CN eight digit code numbers are based on the Harmonized System (HS) nomenclature: The first six digits refer to the HS headings, the two following digits represent the CN subheadings. The EU's on-line customs database can be consulted to look up commodity codes and relevant import duties:
http://europa.eu.int/comm/taxation_customs/taxation/index_en.htm

It is also possible to obtain Binding Tariff Information (BTI) from a member state's customs authority to get the proper product classification. Through this system, traders know in advance the tariff classification of the goods they intend to import. BTI is legally binding in all the member states. For more BTI information see:
http://europa.eu.int/comm/taxation_customs/common/databases/ebti/index_en.htm

The customs value of a good is the CIF price at the European border derived from the product price found on the invoice and the transportation costs reflected in the airway bill or the bill of lading.

Goods are only released after payment of the import duty and other taxes that may be due. Duties payable on goods imported into the EU may include:

- Import duty (expressed as ad valorem tariffs or specific tariffs per unit weight/volume/number of pieces).
- Additional duties on flour and sugar (processed products).
- Entry price (fruit and vegetables).
- Environmental taxes (not harmonized).
- Inspection fees (not harmonized).
- Value added tax (VAT) (not harmonized).
- Excise duties (alcohol and tobacco) (not harmonized).

VAT and Excise Tax

Poland has a Value Added Tax (VAT) system in place for agricultural and food products. The VAT is applied in the same manner to both imported and domestically produced products. The VAT in Poland ranges from 3 percent to 22 percent depending on the type of commodity. A lower VAT is applied to semi-processed commodities such as Non-Fat Dry Milk. A higher VAT is applied to processed commodities, such as bake mixes or retail products. In fall 2000, the government of Poland implemented a 3 percent VAT for basic agricultural products. This VAT rate made Polish taxation similar to the VAT effective in most EU countries.

Customs Clearance

Provided the U.S. exporter has furnished all necessary documentation (including necessary sanitary/phytosanitary certificate) there should be no problems with customs clearance. Also, it is recommended that the exporter be fully aware of the necessary shipping documents required for their product. As the requirements are not uniform for all products and means of transportation, exporters should contact their importer to obtain this information.

Current Polish regulations specify that the importer and producer are responsible for any serious health problems, which may occur as a result of consumption of the product.

Registration of a New Imported Product or Additive

Regulations concerning new imported product entry into the Polish distribution system, are specified in new regulation established on April 26, 2004 by the Polish Minister of Health (Journal of Law no. 104 Pos. 1095, April 26, 2004). These regulations simplify the entry procedure. Please note that this procedure does not apply to novel foods.

Current regulations specify that the importer of a product, which is new to the Polish market, can request approval of the product. The importer needs to contact the Polish Sanitary Authorities (Panstwowy Zaklad Higieny) and submit a letter-requesting permit for product entry (“powiadomienie”).

The required basic documentation should consist of:

- copy of invoice
- product certificate issued by producer
- producers laboratory specification
- proposed Polish language label (with all product ingredients)

The approval procedure takes about one month. On the basis of the initial approval the product can be imported into Poland. The above procedure assures the importer that the

product border clearance procedure is shortened. After this procedure product can be cleared at the Polish border with regular trade documentation:

- importer's request for sanitary inspection (3 copies)
- invoice
- transportation document e.g. airway bill
- Health Certificate/Phytosanitary Certificate/Microbiological Certificate
- Additional documentation from producer confirming products production standards (laboratory tests, certificates etc.)

An importer who does not apply for product approval from PZH can still clear the goods through the Polish border control system (with the documentation listed above). During the border control producers certificates and laboratory tests results are checked for their compliance with the Polish regulations and if all is in order the product is released. Should some discrepancies occur the product will need to be tested by Polish Sanitary authorities.

Once an importer starts to import regularly, not every shipment will be tested. If the product and producer are not well known to the Polish Sanitary authorities the authorities can order shipment tests every 6 months (after the first border control), if the product, producer, and importer are known to the Polish authorities the tests are conducted every 12 months or less frequently.

Import of Product which is Already Present On The Polish Market or In Another EU Country

An importer of product which is already present on the Polish market or in another EU country needs to include in product delivery documentation a letter from the producer which would confirm the fact that the exact same product is approved in another EU country (country needs to be specified).

Such product is then allowed to enter Poland without additional clearance.

Trade Infrastructure set up by the Polish Government:

- **Bonded Warehouses**

Many Polish import firms utilize Bonded Warehouses, which enable them to distribute a portion of imported goods according to demand as well as to easily re-export goods out of Poland. Bonded warehouses are operated by permission of the President of the Central Office of Customs. Commercial code companies can operate them.

- **Special Economic Zones**

A special economic zone (SEZ) is a designated area within the territory of Poland in which business activities (manufacturing or distribution) can be conducted on special, preferential terms. Currently, there are 14 SEZs in Poland, their aim being to support regional development. Since 2001, new regulations on SEZs and public aid have been in force. After January 1, 2001, entrepreneurs who have obtained a permit to conduct activities in SEZs have been eligible for income tax exemption, which is regarded as a form of public aid.

The following forms of tax relief and other incentives to encourage investment are available in the SEZs:

- Income tax exemption

- Relief on real estate tax (depending on a decision of the local authorities)
- Relief on tax on means of transport (depending on a decision of the local authorities)
- Customs duty relief
- Non-tax incentives relating to employment of new employees
- Non-tax incentives related to investment procedures in the SEZs including:
  - Minimum employment
  - Minimum investment outlays

For more information, please contact the Ministry of Finance – Customs Department (Appendix A).

APPENDIX I Government Regulatory Agency Contacts

Ministry of Agriculture and Rural Development
Mr. Jerzy Pilarczyk
Minister
ul. Wspolna 30
00-930 Warsaw
ph: 4822-6231000 - operator
fax: 4822-6232750
Web page: http://www.minrol.gov.pl/DesktopDefault.aspx

Ministry of Agriculture and Rural Development
Department of European Union and Foreign Relations
Mr. Julian Krzyzanowski
Director
ph: 4822-6282071/2
fax: 4822-6296127
Web page: http://www.minrol.gov.pl/DesktopDefault.aspx

General Veterinary Inspectorate
Glowny Inspektor Weterynarii (Chief Veterinary Officer)
Dr. Krzysztof Jazdzewski
ul. Wspolna 30
Warsaw
ph: 4822 623 2089
fax: 4822 623 1408
e-mail: wet@wetgiw.gov.pl
Web page: http://www.wetgiw.gov.pl/englisz/index.htm

Panstwowa Inspekcja Ochrony Roslin i Nasiennictwa
(State Inspectorate for Plant Protection and Seeds)
Mr. Adam Zych, Chief Inspector
ul. Wspolna 30
Warsaw
ph: 4822 623 2302
fax: 4822 623 2304
e-mail: gi@piorin.gov.pl
Web page: http://www.piorin.gov.pl/polskie.html

Glowny Inspektorat Jakosci Handlowej Artykulow Rolno Spozywczych
(Chief Inspectorate for Trade Quality Control of Agricultural Food Products)
Ms. Dorota Krzyzanowska

Department Director
ul. Wspolna 30
00-930 Warsaw
ph: 4822-623 2913
fax: 4822-623 2998
Web page: http://www.ijhar-s.gov.pl/

Ministry of Health and Social Welfare
Mr. Dariusz Adamczewski
Director
Health Policy Department
ph: 4822-8260894
fax:4822-6349376
Web page: http://www.mz.gov.pl/wwwmz/index?ml=en

Main Sanitary Inspection (Glowny Inspektor Sanitarny - GIS)
Mr. Andrzej Trybusz
ul. Dluga 38/40
00-238 Warsaw
ph: 4822-6351559
fax: 4822-6356194
Web page: http://www.gis.gov.pl/english/index.htm

State Hygiene Office- (Panstwowy Zaklad Higieny) - PZH
Prof.Jan Krzysztof Ludwicki, Director, ph: 4822-8497084
Ms. Katarzyna Czaja, chemical residue lab, ph: 4822-8493332
Ms. Krystyna Rybinska, Food Testing Unit
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Warsaw
ph: 4822-8494051 ext. 359, 339
fax: 4822-8493513, 8497441
Web page: http://www.pzh.gov.pl/

National Food and Nutrition Institute
Dr. Lucjan Szponar, Director
Section for Food and Nutrition Manager
ul. Powsinska 61/63
02-903 Warsaw
ph: 4822-651 6330 550 9620
fax: 4822-8421103
fax: 4822-423742
Web page: http://www.izz.waw.pl/izz_en

Voivodship Sanitary Station in Warsaw - SANEPID - actual tests & check ups
Mr. Zbigniew Kutyba, Voividship Sanitary Inspector
Ms. Marzena Czapczyk, Director of Food and Nutrition Department
ul. Zelazna 79
00-875 Warsaw
ph: 4822-6201656, 6209001 ext. 142
fax: 4822-654 7860
Web page: http://www.wsse.waw.pl/

Ministry of Environment
Mr. Anna Liro
Deputy Director
Department of Nature Protection (Biotechnology)
ul. Wawelska 52/54
00-922 Warsaw
ph: 4822-5792285
fax: 4822-5792555
Web page: http://www.mos.gov.pl/1ministerstwo/index.shtml

Ministry of Economic Affairs and Labour - Import Licences and Quotas
Mr. Jaroslaw Maka, Director, Trade Administration Department
Pl. Trzech Krzyzy 5
00-507 Warsaw
ph: 4822-693 5553, 693 5572
fax:4822-693 4021
e-mail: droz@mg.gov.pl
Web page: http://www.mgip.gov.pl/English/

Polish Center for Research and Certification
Ms. Ewa Slowinska
Manager Food Department
ul. Klobucka 23A
02-699 Warsaw
ph: 4822-857 9916, 647 0722
fax: 4822-647 1222, 647 1109
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Ministry of Finance – Customs Department
Ms. Anna Dubielak
Customs Department Acting Director
ul. Swietokrzyska 12
00-916 Warsaw
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Web page: http://www.mf.gov.pl/aktualnosci/index.php